

rule is completely optional while the Republican measure is a mandate. In fact, the current rule goes out of its way to make sure that decision making remains solely in the hands of the fiduciary. Nothing changes the fact that investment decisions must be shown to be prudent above all else.

Now, the hard right has made a lot of noise trying to make ESG their dirty little acronym. They say this is about wokeness, that this is a cult, that it is some grave intrusion into finance. It is the same predictable, uncreative, unproductive attacks they use for anything they don't like.

But this isn't about ideological preference. ESG is about looking at the biggest picture possible so the investors can make decisions that decrease risk while increasing returns. In fact, more than 90 percent of S&P companies already publish ESG reports today. So none of this is new. It has been a long-established practice, one that Republicans suddenly say they don't like and want to forbid.

But why shouldn't managers evaluate the risks posed by an increasingly volatile climate if they deem it helps them get a return on their investment? Why shouldn't they consider the consequences of an aging population or other trends that could impact their portfolio? And even a better question is this: Why are Republicans going out of their way to prohibit investors from making the best possible choices as they manage their funds? Why are Republicans trying to forbid investors from considering climate and other factors if they believe it would help them get a better return?

The bottom line is this: The present rule gives investment managers an option. The Republican rule, on the other hand, ties investors' hands. Republicans talk about their love of the free market, small government, letting the private sector do its work, but their obsession with eliminating ESG would do the opposite, forcing their own views down the throats of every company and investor. The Republican amendment, again, would force their own views down the throats of every company and investor.

You know what we say on this side? Let the market work. If that naturally leads to consideration of ESG factors, then Republicans should practice what they have long preached and get out of the way.

I thank my Democratic colleagues who are joining us in opposition to this measure.

I yield the floor and call the question.

The PRESIDING OFFICER. The clerk will read the title of the joint resolution for a third time.

The joint resolution was ordered to a third reading and was read the third time.

#### VOTE ON H.J. RES. 30

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall the joint resolution pass?

Mr. BRAUN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. FEINSTEIN), the Senator from Pennsylvania (Mr. FETTERMAN), and the Senator from Oregon (Mr. MERKLEY) are necessarily absent.

Mr. THUNE. The following Senator is necessarily absent: the Senator from Idaho (Mr. CRAPO).

The result was announced—yeas 50, nays 46, as follows:

#### [Rollcall Vote No. 35 Leg.]

##### YEAS—50

Barrasso	Grassley	Ricketts
Blackburn	Hagerty	Risch
Boozman	Hawley	Romney
Braun	Hoeven	Rounds
Britt	Hyde-Smith	Rubio
Budd	Johnson	Schmitt
Capito	Kennedy	Scott (FL)
Cassidy	Lankford	Scott (SC)
Collins	Lee	Sullivan
Cornyn	Lummis	Tester
Cotton	Manchin	Thune
Cramer	Marshall	Tillis
Cruz	McConnell	Tuberville
Daines	Moran	Vance
Ernst	Mullin	Wicker
Fischer	Murkowski	Young
Graham	Paul	

##### NAYS—46

Baldwin	Hickenlooper	Sanders
Bennet	Hirono	Schatz
Blumenthal	Kaine	Schumer
Booker	Kelly	Shaheen
Brown	King	Sinema
Cantwell	Klobuchar	Smith
Cardin	Lujan	Stabenow
Carper	Markey	Van Hollen
Casey	Menendez	Warner
Coons	Murphy	Warnock
Cortez Masto	Murray	Warren
Duckworth	Ossoff	Welch
Durbin	Padilla	Whitehouse
Gillibrand	Peters	Wyden
Hassan	Reed	
Heinrich	Rosen	

##### NOT VOTING—4

Crapo	Fetterman
Feinstein	Merkley

The joint resolution (H.J. Res. 30) was passed.

#### EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume executive session.

#### CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The senior assistant legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Executive Calendar No. 39, James Edward Simmons, Jr., of California, to be United States District Judge for the Southern District of California.

Charles E. Schumer, Richard J. Durbin, Jeff Merkley, Jeanne Shaheen, Elizabeth Warren, Sheldon Whitehouse, Richard Blumenthal, Christopher A. Coons, Jack Reed, Alex Padilla, Gary C. Peters, Angus S. King, Jr., Mazie Hirono, Tim Kaine, Brian Schatz, Cory A. Booker.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of James Edward Simmons, Jr., of California, to be United States District Judge for the Southern District of California, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. FEINSTEIN), the Senator from Pennsylvania (Mr. FETTERMAN), and the Senator from Oregon (Mr. MERKLEY) are necessarily absent.

Mr. THUNE. The following Senator is necessarily absent: the Senator from Idaho (Mr. CRAPO).

The yeas and nays resulted—yeas 51, nays 45, as follows:

#### [Rollcall Vote No. 36 Ex.]

##### YEAS—51

Baldwin	Heinrich	Rosen
Bennet	Hickenlooper	Sanders
Blumenthal	Hirono	Schatz
Booker	Kaine	Schumer
Brown	Kelly	Shaheen
Cantwell	King	Sinema
Cardin	Klobuchar	Smith
Carper	Lujan	Stabenow
Casey	Manchin	Tester
Collins	Markey	Tillis
Coons	Menendez	Van Hollen
Cortez Masto	Murphy	Warner
Duckworth	Murray	Warnock
Durbin	Ossoff	Warren
Gillibrand	Padilla	Welch
Graham	Peters	Whitehouse
Hassan	Reed	Wyden

##### NAYS—45

Barrasso	Grassley	Paul
Blackburn	Hagerty	Ricketts
Boozman	Hawley	Risch
Braun	Hoeven	Romney
Britt	Hyde-Smith	Rounds
Budd	Johnson	Rubio
Capito	Kennedy	Schmitt
Cassidy	Lankford	Scott (FL)
Cornyn	Lee	Scott (SC)
Cotton	Lummis	Sullivan
Cramer	Marshall	Thune
Cruz	McConnell	Tuberville
Daines	Moran	Vance
Ernst	Mullin	Wicker
Fischer	Murkowski	Young

##### NOT VOTING—4

Crapo	Fetterman
Feinstein	Merkley

The PRESIDING OFFICER (Ms. CORTEZ MASTO). On this vote, the yeas are 51, the nays are 45.

The motion is agreed to.

#### EXECUTIVE CALENDAR

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of James Edward Simmons, Jr., of California, to be United States District Judge for the Southern District of California.